

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:12-cv-246**

**OUTER BANKS BEACH CLUB )  
ASSOCIATION, INC. and OUTER BANKS )  
BEACH CLUB II OWNER'S )  
ASSOCIATION, INC., )**

**Plaintiff,**

**vs.**

**FESTIVA RESORTS ADVENTURE )  
CLUB MEMBERS' ASSOCIATION, INC. )  
INTERVAL ASSETS, INC., FESTIVA )  
DEVELOPMENT GROUP, LLC, a )  
Nevada limited liability company and )  
JOHN DOES 1-X to be added as )  
appropriate, )**

**Defendants.**

**ORDER**

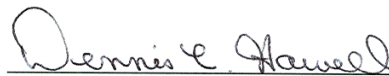
**THIS MATTER** is before the Court *sua sponte* to ascertain subject matter jurisdiction. The Plaintiff filed this Complaint (#1) based upon diversity jurisdiction. In the Complaint, the Plaintiff alleges that Festiva Development Group, LLC is a Nevada limited liability company transacting business in the state of North Carolina. The Defendant has admitted that allegation.

Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d

215 (4<sup>th</sup> Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997),  
*certiorari denied* 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28 U.S.C.  
§1447(c)("If at any time before final judgment it appears that the district court lacks  
subject matter jurisdiction, the case shall be remanded."). A limited liability  
company is a citizen of all states in which its constituent members are citizens.  
Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157  
(1990). The Defendant Festiva Development Group, LLC has not disclosed  
whether it has constituent members or partners and where those constituent  
members or partners have their citizenship and therefore will be required to do so.

**IT IS, THEREFORE, ORDERED** that on or before November 28, 2012,  
the Defendant Festiva Development Group, LLC shall file a response disclosing the  
names and citizenships of all the constituent members or partners of Festiva  
Development Group, LLC and to identify the citizenships of the respective  
constituent members or partners until all such constituents are fully identified.

Signed: November 8, 2012



Dennis L. Howell  
United States Magistrate Judge

